

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VITTORIO ABBRUZZINO,

Plaintiff,

Case No. 08-11534

v.

Robert H. Cleland
U.S. District Judge

DR. HUTCHITON,

Defendant.

Michael Hluchaniuk
U.S. Magistrate Judge

**ORDER DENYING PLAINTIFF'S MOTION
FOR APPOINTMENT OF COUNSEL WITHOUT PREJUDICE**

This matter is before the Court on plaintiff's motion for appointment of counsel. (Dkt. # 7). Plaintiff, an inmate currently in the custody of the State of Michigan, brings this action under 42 U.S.C. § 1983, claiming violations of his rights under the United States Constitution. (Dkt. # 1). Plaintiff claims that after a serious leg injury and multiple surgeries, he continues to have an open and infected wound that defendants failed to treat. *Id.*

Orders granting plaintiff's application to proceed *in forma pauperis* and directing service of process on defendants were entered on April 15, 2008. (Dkt. #

3, 4). On April 23, 2008, District Judge Robert H. Cleland referred this matter to the undersigned for all pretrial purposes. (Dkt. # 6). Plaintiff filed his motion for the appointment of counsel on April 30, 2008. (Dkt. # 7).

In support of his request for counsel, plaintiff states that he is unable to afford counsel, that the issues in this case are complex, and that he has a limited knowledge of the law. (Dkt. # 7, p. 1). Plaintiff also asserts that this matter will require expert testimony and discovery. *Id.* at 2. Under 28 U.S.C. § 1915(e)(1), a federal court may request an attorney to represent an indigent plaintiff. *Reneer v. Sewell*, 975 F.2d 261 (6th Cir. 1992). Except in rare circumstances, it is the practice of this Court to consider the appointment of counsel in prisoner civil rights cases where exceptional circumstances exist, or in certain cases, only after a motion to dismiss or for summary judgment has been decided. In order to make the determination whether there are exceptional circumstances to appoint counsel, the Court considers the type of case involved, plaintiff's ability to represent himself, as well as the complexity of the case, and also whether the claims being presented are frivolous or have a small likelihood of success. *Reneer*, 975 F.2d at 261; *Mars v. Hanberry*, 752 F.2d 254, 256 (6th Cir. 1995).

It appears that, from reading the complaint and motion filed by plaintiff, he has an adequate understanding of the matters involved in this case, and is able to articulate his claims and arguments in a reasonable fashion. It also appears that the issues raised in his complaint are straightforward and understandable and not of an unduly complex nature. Should any future dispositive motion(s) be decided in plaintiff's favor, plaintiff may re-file his motion for the appointment of counsel.

IT IS HEREBY ORDERED that plaintiff's motion for appointment of counsel is hereby **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

The parties to this action may object to and seek review of this Order, but are required to file any objections within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not thereafter assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), a copy of any objections is to be served on this Magistrate Judge.

Date: May 12, 2008

s/Michael Hluchaniuk

Michael Hluchaniuk

United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification to the following: not applicable, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Vittorio Abbruzzino #226307, Cooper Street Correctional Facility, 3100 Cooper St., Jackson, MI 49201 .

s/James P. Peltier
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